

### **REMARKS**

This is a full and timely response to the non-final Office Action (Paper No. 5) mailed by the U.S. Patent and Trademark Office on October 19, 2004. Claims 11, 21 and 32 have been amended to distinctly claim the subject matter which Applicants regard as the invention. Claims 1, 12 and 22 have been amended to define further the invention. Applicants request entry of the amendments. Applicants further respectfully submit that the pending claims are allowable over the cited references for at least the reason that the cited references do not disclose, teach, or suggest at least a sensor and mating element that alters the operational aspects of a mobile electronic device based on the location of the mobile electronic device with respect to the sensor and the mating element. Each rejection presented in the Office Action is discussed in the remarks that follow.

#### **I. Response to 35 U.S.C. § 112 Rejections – Claims 11, 21 and 32**

##### **A. Statement of the Rejection**

The Office Action states that claims 11, 21 and 32 presently stand rejected under 35 U.S.C. § 112, Second Paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants believe to be the invention.

##### **B. Discussion of the Rejection**

Applicants have amended claims 11, 21 and 32 to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully submit that claims 11, 21 and 32 are now in compliance with 35 U.S.C. § 112, Second Paragraph, and request that the rejection be withdrawn.

#### **II. Response to 35 U.S.C. § 102 Rejections – Claims 1-3, 5-9, 14-19, 22-24, 26-27 and 29-30**

##### **A. Statement of the Rejection**

The Office Action states that claims 1-3, 5-9, 14-19, 22-24, 26-27 and 29-30 presently stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,408,187 to Berstis *et al.* (hereafter *Berstis et al.*). However, U. S. Patent No. 6,408,187 is issued to Merriam (hereafter *Merriam*) and is used elsewhere in the Office Action to reject independent claim 12. The patent to *Berstis et al.* is U. S. Patent No. 6,650,894.

Accordingly, Applicants will respond to the rejection of claims 1-3, 5-9, 14-19, 22-24, 26-27 and 29-30 as if the claims are rejected over *Berstis et al.* If the Applicants have misunderstood the Examiner's intent, Applicants respectfully request clarification in a subsequent action.

**B. Discussion of the Rejection**

Applicants respectfully traverse the rejection of claims 1-3, 5-9, 14-19, 22-24, 26-27 and 29-30 under 35 U.S.C. § 102(e) over *Berstis et al.* for at least the reason that *Berstis et al.* fails to disclose, teach, or suggest each element in the claims.

A proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). The test is the same for a process. Anticipation requires identity of the claimed process and a process of the prior art. The claimed process, including each step thereof, must have been described or embodied, either expressly or inherently, in a single reference. *See, e.g., Glaverbel S.A. v. Northlake Mkt'g & Supp., Inc.*, 45 F.3d 1550, 33 USPQ2d 1496 (Fed. Cir. 1995). Those elements must either be inherent or disclosed expressly. *See, e.g., Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988); *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987). Those elements must also be arranged as in the claim. *See, e.g., Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989); *Carella v. Starlight Archery & Pro Line Co.*, 804 F.2d 135, 231 USPQ 644 (Fed. Cir. 1986). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Accordingly, the single prior art reference must properly disclose, teach or suggest each element of the claimed invention.

For at least the reason that *Berstis et al.* fails to disclose, teach, or suggest at least Applicants' method for altering an operational aspect of a mobile electronic device comprising "developing a signal in the sensor, the signal determined by whether the sensor is coupled to *and recognizes* the mating element" and "altering a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*," as recited in claim 1, Applicants respectfully submit that *Berstis et al.* **does not** anticipate Applicants' independent claim 1.

Similarly, for at least the reason that *Berstis et al.* fails to disclose, teach, or suggest at least Applicants' computer readable medium having a program for altering an operational aspect of a mobile electronic device, the program comprising "developing a signal in the sensor, the signal determined by whether the sensor is coupled to *and recognizes* the mating element" and "altering a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*," as recited in claim 22, Applicants respectfully submit that *Berstis et al.* **does not** anticipate Applicants' independent claim 22.

#### Claim 1

For convenience of analysis, independent claim 1 is repeated below in its entirety.

1. A method for altering an operational aspect of a mobile electronic device, the method comprising:

- providing a sensor associated with the mobile electronic device;
- determining whether the sensor is coupled to a mating element associated with the sensor;
- developing a signal in the sensor, the signal determined by whether the sensor is coupled to *and recognizes* the mating element;
- receiving the signal in a processor; and
- altering a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*.

(Applicants' independent claim 1 - *emphasis added*.)

Applicants respectfully assert that *Berstis et al.* fails to disclose, teach, or suggest at least the emphasized elements of pending claim 1 as shown above. Consequently, claim 1 is

allowable.

Specifically, *Berstis et al.* fails to disclose, teach, or suggest at least Applicants' method for altering an operational aspect of a mobile electronic device comprising "developing a signal in the sensor, the signal determined by whether the sensor is coupled to ***and recognizes*** the mating element" and "altering a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element.***"

*Berstis et al.* appears to disclose an electronic device that is able to detect the proximity of another electronic device, and alter one or more of its operational behaviors based on its proximity to the other electronic device. As an example, a user may select a condition that between 8 P.M. and 7 A.M. when the user's spouse's mobile phone is detected within twenty-five feet of the user's mobile phone, the user's mobile phone is to turn off the output interface 44 and automatically route calls to voice mail. See *Berstis et al.*, col. 4, lines 57-63. As another example, *Berstis* discloses that "the employer may provide a conditional setting control code that allows audible output at a particular volume from any mobile phone after normal work hours if the mobile phone is not within twenty feet of any other mobile phone while inside the building." See *Berstis et al.*, col. 5, lines 15-21. Based on these examples, it is clear that *Berstis et al.* requires that a mobile phone detect the presence of another mobile phone in order to alter any of its behavioral characteristics.

With regard to the statement in the Office Action that *Berstis et al.* teaches a method including "determining whether the sensor is coupled to a mating element associated with the sensor (Col 8, lines 58-64 teach coupled width sensor)," Applicants respectfully submit that nowhere, in col. 8, lines 58-64, or elsewhere, does *Berstis et al.* disclose, teach or suggest a sensor coupled to a mating element. Specifically, in col. 8, lines 58-64, *Berstis* discloses that a "master device 68 may be coupled with a light sensor in the meeting room that detects when the lights are turned down for a presentation. Electronic device 68 may include a conditional setting that when the lights are dimmed in the meeting area, all electronic devices within the meeting area are to receive a control code to turn off any backlighting elements." Applicants respectfully submit that nowhere does *Berstis et al.* disclose, teach or suggest a sensor coupled to a mating element, but instead, teaches that a master control device (element 68 in

*Berstis et al.*), can be coupled to a light sensor, and by sensing the light in the room, control the brightness of the backlighting elements in other electronic devices coupled to the master device 68.

In marked contrast to *Berstis et al.*, independent claim 1 includes at least “developing a signal in the sensor, the signal determined by whether the sensor is coupled to and recognizes the mating element” and “altering a characteristic of the mobile electronic device based on the received sensor signal and based on the location of the mobile electronic device with respect to the mating element.” Applicants respectfully submit that Applicants’ mating element need not be an electronic device, as required by *Berstis et al.* Indeed, Applicants have defined the mating element to be, for example, a belt clip, a belt pouch, a charger, a car clip and a clothing carrier. Applicants respectfully submit that these features are neither disclosed, taught nor suggested by *Berstis et al.*

With regard to claims 3, 16 and 24, Applicants respectfully disagree with the statement on page 4 of the Office Action that *Berstis et al.* teaches “the method wherein the altering step alters a radio frequency (RF) characteristic of the mobile electronic device (Col 6, lines 41-43 teach altering and (RF) frequency).” Applicants respectfully submit that in col. 6, lines 41-43, *Berstis et al.* teaches that it is possible to use radio frequency (RF) as a transmission media with which to transmit the control signals to and from an electronic device 40, and in no way discloses, teaches or suggests controlling an RF characteristic of the mobile electronic device, as recited in Applicants’ claims 3, 16 and 24.

With regard to claims 5 and 26, Applicants respectfully disagree with the statement on page 4 of the Office Action that *Berstis et al.* “teaches the method/logic configure further comprising altering a user interface characteristic based upon a sensor signal determined by the mating element if the determining step concludes that the sensor is coupled to a mating element (Col. 8, lines 51-64 teaches sensor is coupled and mating element which would be multiple number of electronic device).” Applicants respectfully submit that in col. 8, lines 51-64, *Berstis et al.* teaches that a mater device 68 may be coupled with a light sensor in a meeting room that detects when the lights are turned down for a presentation. The electronic device may include a conditional setting that when the lights are dimmed in the meeting area, all electronic devices within the meeting area are to receive a control code to turn off any

back lighting elements. Applicants respectfully submit that nowhere does *Berstis et al.* disclose, teach or suggest method or logic for altering a user interface characteristic based upon a sensor signal determined by the mating element.

With regard to claims 6 and 27, Applicants also respectfully disagree with the statement on page 4 of the Office Action that *Berstis et al.* teaches a method “further comprising altering a radio frequency (RF) characteristic based upon a sensor signal determined by the mating element if the determining step concludes that the sensor is coupled to a mating element (Col 6, lines 41-43, Col 8, lines 51-64 teach alternate (RF) and sensor is coupled to mating element).” Applicants respectfully submit that nowhere, in col. 6, lines 41-43, or in col. 8, lines 51-64 does *Berstis et al.* disclose, teach or suggest at least Applicants’ step of altering a radio frequency (RF) characteristic based upon a sensor signal determined by the mating element if the determining step concludes that the sensor is coupled to a mating element, as recited in claims 6 and 27.

Thus, *Berstis et al.* fails to disclose, teach, or suggest each element of the Applicants’ independent claim 1. Consequently, Applicants respectfully submit that claim 1 is allowable over *Berstis et al.* and request that the rejection of claim 1 be withdrawn.

Because independent claim 1 is allowable, dependent claims 2-3 and 5-9, which depend directly from allowable independent claim 1, are also allowable. *See In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Applicants respectfully request that the rejection of claims 1-3 and 5-9 be withdrawn.

With regard to dependent claims 14-19, Applicants respectfully submit that independent claim 12, from which dependent claims 14-19 either directly or indirectly depend, is not rejected over *Berstis et al.* but is instead rejected under 35 U.S.C. 102(e) under U.S. Patent No. 6,408,187 to *Merriam*. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 14-19 over *Berstis et al.* Alternatively, Applicants respectfully request clarification of the rejection in a subsequent Office Action.

#### **Claim 22**

For convenience of analysis, independent claim 22 is repeated below in its entirety.

22. A computer readable medium having a program for altering an operational aspect of a mobile electronic device, the program comprising logic configured to perform the steps of:

determining whether a sensor associated with the mobile electronic device is coupled to a mating element associated with the sensor;

developing a signal in the sensor, the signal determined by whether the sensor is coupled to ***and recognizes*** the mating element;

receiving the signal in a processor; and

altering a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element.***

(Applicants' independent claim 22 - *emphasis added.*)

Applicants respectfully assert that *Berstis et al.* fails to disclose, teach, or suggest at least the emphasized elements of pending claim 22 as shown above. Consequently, claim 22 is allowable.

Specifically, *Berstis et al.* fails to disclose, teach, or suggest at least Applicants' program for altering an operational aspect of a mobile electronic device comprising "developing a signal in the sensor, the signal determined by whether the sensor is coupled to ***and recognizes*** the mating element" and "altering a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element.***"

As mentioned above, *Berstis et al.* appears to disclose an electronic device that is able to detect the proximity of another electronic device, and alter one or more of its operational behaviors based on its proximity to the other electronic device. As an example, a user may select a condition that between 8 P.M. and 7 A.M. when the user's spouse's mobile phone is detected within twenty-five feet of the user's mobile phone, the user's mobile phone is to turn off the output interface 44 and automatically route calls to voice mail. *See Berstis et al.*, col. 4, lines 57-63. As another example, *Berstis* discloses that "the employer may provide a conditional setting control code that allows audible output at a particular volume from any mobile phone after normal work hours if the mobile phone is not within twenty feet of any other mobile phone while inside the building." *See Berstis et al.*, col. 5, lines 15-21. Based on these examples, it is clear that *Berstis et al.* requires that a mobile phone detect the presence of another mobile phone in order to alter any of its behavioral characteristics.

With regard to the statement in the Office Action that *Berstis et al.* teaches a method including “determining whether the sensor is coupled to a mating element associated with the sensor (Col 8, lines 58-64 teach coupled width sensor),” Applicants respectfully submit that nowhere, in col. 8, lines 58-64, or elsewhere, does *Berstis et al.* disclose, teach or suggest a sensor coupled to a mating element. Specifically, in col. 8, lines 58-64, *Berstis* discloses that a “master device 68 may be coupled with a light sensor in the meeting room that detects when the lights are turned down for a presentation. Electronic device 68 may include a conditional setting that when the lights are dimmed in the meeting area, all electronic devices within the meeting area are to receive a control code to turn off any backlighting elements.” Applicants respectfully submit that nowhere does *Berstis et al.* disclose, teach or suggest a sensor coupled to a mating element, but instead, teaches that a master control device (element 68 in *Berstis et al.*), can be coupled to a light sensor, and by sensing the light in the room, control the brightness of the backlighting elements in other electronic devices coupled to the master device 68.

In marked contrast to *Berstis et al.*, independent claim 22 includes at least “developing a signal in the sensor, the signal determined by whether the sensor is coupled to ***and recognizes*** the mating element” and “altering a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element.***” Applicants respectfully submit that Applicants’ mating element need not be an electronic device, as required by *Berstis et al.* Indeed, Applicants have defined the mating element to be, for example, a belt clip, a belt pouch, a charger, a car clip and a clothing carrier. Applicants respectfully submit that these features are neither disclosed, taught nor suggested by *Berstis et al.*

Thus, *Berstis et al.* fails to disclose, teach, or suggest each element of the Applicants’ independent claim 22. Consequently, Applicants respectfully submit that claim 22 is allowable over *Berstis et al.* and request that the rejection of claim 22 be withdrawn.

Because independent claim 22 is allowable, dependent claims 23, 24, 26-27 and 29-30, which depend directly from allowable independent claim 22, are also allowable. *See In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Applicants respectfully request that the rejection of claims 22-24, 26-27 and 29-30 be withdrawn.



### III. Response to 35 U.S.C. § 102 Rejections – Claim 12

#### A. Statement of the Rejection

Claim 12 presently stands rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,408,187 to Merriam (hereafter *Merriam*).

#### B. Discussion of the Rejection

Applicants respectfully traverse the rejection of claim 12 under 35 U.S.C. § 102(e) over *Merriam* for at least the reason that *Merriam* fails to disclose, teach, or suggest each element in the claims.

#### Claim 12

For convenience of analysis, independent claim 12 is repeated below in its entirety.

12. A system for altering an operational aspect of a mobile electronic device, comprising:

a sensor associated with the mobile electronic device;

a mating element associated with the sensor, the sensor configured to develop a signal based on *whether the sensor recognizes the mating element*; and

logic configured to receive the signal from the sensor and alter a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*.

(Applicants' independent claim 12 - *emphasis added*.)

Applicants respectfully assert that *Merriam* fails to disclose, teach, or suggest at least the emphasized elements of pending claim 12 as shown above. Consequently, claim 12 is allowable.

Specifically, *Merriam* fails to disclose, teach, or suggest at least Applicants' system for altering an operational aspect of a mobile electronic device comprising "a mating element associated with the sensor, the sensor configured to develop a signal based on *whether the sensor recognizes the mating element*" and "logic configured to receive the signal from the sensor and alter a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*."

*Merriam* appears to disclose "a mechanism for automatically determining the behavior of a communications device based upon the likelihood that a user is within relatively close proximity to the communications device." See, *Merriam*, col. 2, lines 4-7. The sensing

mechanism in *Merriam*, “is capable of providing an indication as to the likelihood that a user is within relatively close proximity to the communications device 100.” *See, Merriam*, col. 4, lines 18-23. From this it is clear that *Merriam* requires a system and method that can determine the likelihood that a user is within a relatively close proximity to the communication device.

In marked contrast, the invention includes at least “*a mating element associated with the sensor, the sensor configured to develop a signal based on whether the sensor recognizes the mating element,*” and “*logic configured to receive the signal from the sensor and alter a characteristic of the mobile electronic device based on the received sensor signal and based on the location of the mobile electronic device with respect to the mating element,*” as recited in claim 12. Applicants respectfully disagree with the statement in the Office Action that *Merriam* teaches “a mating element associated with the sensor, the sensor configured to develop a signal based on the mating element (Col 5, lines 15-46 teach mating associated with sensor which sensor would read on likelihood).” Applicants respectfully submit that nowhere does *Merriam*, in col. 5, lines 15-46, or elsewhere, disclose, teach or suggest a mating element associated with the sensor, the mating element determining operational characteristics of the portable communication device.

Thus, *Merriam* fails to disclose, teach, or suggest each element of the Applicants’ independent claim 12. Consequently, Applicants respectfully submit that claim 12 is allowable over *Merriam* and request that the rejection of claim 12 be withdrawn.

#### **IV. Response to 35 U.S.C. § 103 Rejections – Claims 4, 10, 11, 13, 20, 21, 25, 31 and 32**

##### **A. Statement of the Rejection**

Claims 4, 10, 11, 13, 20, 21, 25, 31 and 32 presently stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Berstis et al.* in view of over U.S. Patent No. 6,377,825 to Kennedy *et al.* (hereafter *Kennedy et al.*).

However, U. S. Patent No. 6,408,187 is issued to Merriam (hereafter *Merriam*) and is used elsewhere in the Office Action to reject independent claim 12. The patent to *Berstis et al.* is U. S. Patent No. 6,650,894. Accordingly, Applicants will respond to the rejection of claims 4, 10, 11, 13, 20, 21, 25, 31 and 32 as if the claims are rejected over the combination

of *Berstis et al.* and *Kennedy et al.* If the Applicants have misunderstood the Examiner's intent, Applicants respectfully request clarification in a subsequent action.

**B. Discussion of the Rejection**

Applicants respectfully traverse the rejection of claims 4, 10, 11, 13, 20, 21, 25, 31 and 32 under 35 U.S.C. § 103(a) over *Berstis et al.* in view of *Kennedy et al.* for at least the reason that the proposed combination fails to disclose, teach, or suggest each element in the claims.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

For at least the reason that *Berstis et al.* in view of *Kennedy et al.* fails to disclose, teach, or suggest at least Applicants' "developing a signal in the sensor, the signal determined by whether the sensor is coupled to ***and recognizes*** the mating element and "altering a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element,***" as recited in claim 1, Applicants respectfully submit that *Berstis et al.* in view of *Kennedy et al.* ***does not*** establish a *prima facie* case of obviousness with regard to Applicants' dependent claims 4, 10 and 11.

Similarly, for at least the reason that *Berstis et al.* in view of *Kennedy et al.* fails to disclose, teach, or suggest at least Applicants' "mating element associated with the sensor, the sensor configured to develop a signal based on whether the sensor recognizes the mating element" and "logic configured to receive the signal from the sensor and alter a characteristic of the mobile electronic device based on the received sensor signal ***and based on the location of the mobile electronic device with respect to the mating element,***" as recited in claim 12, Applicants respectfully submit that *Berstis et al.* in view of *Kennedy et al.*, ***does not*** establish a *prima facie* case of obviousness with regard to Applicants' dependent claims 13, 20 and 21.

Further, for at least the reason that *Berstis et al.* in view of *Kennedy et al.* fails to disclose, teach, or suggest at least Applicants' "developing a signal in the sensor, the signal

determined by whether the sensor is coupled to *and recognizes* the mating element” and “altering a characteristic of the mobile electronic device based on the received sensor signal *and based on the location of the mobile electronic device with respect to the mating element*,” as recited in claim 22, Applicants respectfully submit that *Berstis et al.* in view of *Kennedy et al.* **does not** establish a *prima facie* case of obviousness with regard to Applicants’ dependent claims 25, 31 and 32.

*Kennedy et al.* teaches a wireless communication system for a vehicle using a wireless communication device, a pocket for holding the wireless communication device and an interface module in communication with the pocket.

Applicants respectfully disagree with the statement in the Office Action that *Kennedy* “teach the method further comprising using a default user interface characteristic and a default radio frequency characteristic if the determining step concludes that the sensor is not coupled to the mating element (Col 6, lines 23-44 teach radio frequency that mating element in electrical connectors and interface module).” Applicants respectfully submit that the only mention of radio frequency in col. 6, lines 23-44 of *Kennedy et al.* states “[t]he radio frequency connectors 118, 126, 138, and 140 also cooperate to carry radio frequency signals from the telephone 102 to an antenna mounted on the exterior of the vehicle. Therefore, in summary, the pocket 104 generally serves to mechanically and electrically interconnect the telephone 102 to the interface module 106 and in turn to the vehicle.” *See, Kennedy et al.*, col. 6, lines 37-44. Applicants respectfully submit that nowhere does the proposed combination disclose, teach or suggest using a default user interface characteristic and a default radio frequency characteristic if the determining step concludes that the sensor is not coupled to the mating element, as recited in claims 4 and 25. Applicants respectfully submit that the proposed combination fails to disclose a mating element, and that *Kennedy et al.* fails to remedy the deficiencies of *Berstis et al.*, in that the proposed combination fails to disclose, teach or suggest the recited claim elements.

Applicants also respectfully disagree with the statement on page 7 of the Office Action that “*Kennedy* further teach the method wherein the mating element is chosen from the group consisting of, no coupling, a belt clip, a belt pouch, a charger, a car clip, and a clothing carrier (Col 2, lines 40-45, lines 59-63 teach mating element which read on mating

with various electrical connector.” Applicants respectfully submit that nowhere in col. 2, lines 40-45 or lines 59-63 does *Kennedy et al.* disclose, teach or suggest a mating element, wherein the mating element is chosen from the group consisting of, no coupling, a belt clip, a belt pouch, a charger, a car clip, and a clothing carrier, as recited in claims 10, 20 and 31. Applicants also respectfully reiterate that the proposed combination fails to disclose, teach or suggest a mating element, and therefore, cannot recite the group from which the mating element is chosen.


Thus, the proposed combination fails to disclose, teach, or suggest each element of the Applicants’ dependent claims 4, 10, 11, 13, 20, 21, 25, 31 and 32. Consequently, Applicants respectfully submit that claims 4, 10, 11, 13, 20, 21, 25, 31 and 32 are allowable over *Berstis et al.* in view of *Kennedy et al.* and request that the rejection be withdrawn. Further, Applicants respectfully submit that claims 4, 10, 11, 13, 20, 21, 25, 31 and 32 are allowable for at least the reason that they depend either directly or indirectly from allowable independent claims. *In re Fine, supra.*

### CONCLUSION

In summary, Applicants respectfully request that all outstanding claim rejections be withdrawn. Applicants respectfully submit that presently pending claims 1-11 and 13-32 are allowable over the cited art of reference and the present application is in condition for allowance. Accordingly, a Notice of Allowance is respectfully solicited. Should the Examiner have any comment regarding the Applicants' response or believe that a teleconference would expedite prosecution of the pending claims, Applicants request that the Examiner telephone Applicants' undersigned attorney.

Respectfully submitted,

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